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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/590,096

05/25/2007

John Stephenson

JER-061582_PCT

4152

56973

7590

07/21/2009

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EXAMINER

PARADISO, JOHN ROGER

ART UNIT

PAPER NUMBER

3721

MAIL DATE

DELIVERY MODE

07/21/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/590,096	Applicant(s) STEPHENSON, JOHN	
	Examiner John Paradiso	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendments

1. In view of the amendments filed 4/14/2009, the objections to the Specification and the Drawings are hereby withdrawn.

Claim Rejections

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1, 4-9, and 39 are rejected under 35 U.S.C. § 102(b) as being anticipated by MOORMAN, as set forth in paragraph 5 of the previous Office Action and reprinted below for convenience:

MOORMAN discloses a method and apparatus comprising a flexible bag with an inner contents bag liner (22) locatable within an outer box carton (1) and a neck piece or collar (7), between a bag neck and a carton wall or wall aperture (see Fig. 6), with co-operative fit between respective collar and carton or carton aperture edge profiles.

MOORMAN discloses a container for a flexible bag with a collapsed carton in a compact flat-pack configuration (see Fig. 2). Examiner notes that any flexible bag would be capable of collapsing along with the carton blank, which could then be transported or stored. A flexible bag with a carton wrap or sleeve around a bag leaving exposed a protruding bag neck and collar (see Figure 1). MOORMAN discloses a container for a flexible bag with a lockable closure cover flap integrated with the collar, to inhibit access

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to an underlying bag neck and so bag contents. Examiner considers cover flap 7 to provide a lockable closure.

Regarding claim 5, the injecting of air is being read on the air which would inherently be in the fill tube and thus precede the contents from any fill tube into the bag.

4. Claims 2 and 3 are rejected under 35 U.S.C. § 103(a) as being unpatentable over MOORMAN in view of EEG ET AL, as set forth in paragraph 7 of the previous Office Action and reprinted below for convenience:

MOORMAN discloses a method and apparatus comprising a flexible bag with an inner contents bag liner, as described above.

MOORMAN does not disclose a handle integrated with the collar.

EEG ET AL discloses a bag-in-box package comprising a handle aperture (18) foldably (via 16) formed with the collar for dispensing (22) (see Fig. 1). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Moorman's container to include a handle formed integrally with the collar in order to provide a hand-hold, which would be useful while pouring the contents out of the container (see EEG ET AL, column 2:1-10).

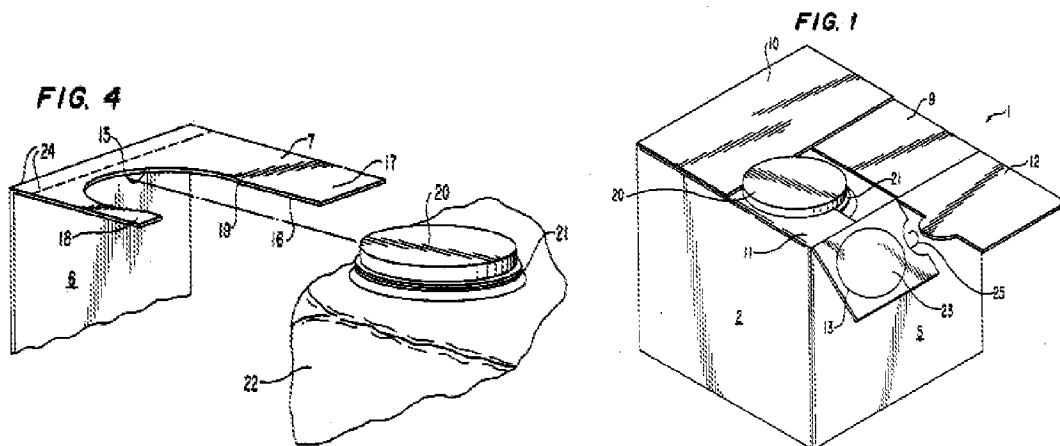
It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of MOORMAN by adding a handle, as taught by EEG ET AL, in order to make the product and method more convenient for a consumer.

Response to Arguments

5. Applicant's arguments filed 4/14/2009 have been fully considered but they are not persuasive.

6. Applicant states on page 7 of his Response that "Applicant submits that the prior art '753 patent is directed to a flexible container that is inserted into an outer carton. Applicant submits that the '753 patent does not disclose or suggest a retention collar, or the particular carton element with a collar aperture. As a result, at least the steps of extending and securing are not disclosed nor suggested by the prior art '753 patent."

However, column 3:55-59 of MOORMAN recites "When the spout 20 is inserted into the aperture 14, the outer peripheral wall of the spout 21 is engaged on both apertures 14 and 15, and the spout 20 is held rigidly in the position shown in FIG. 1."



The outer peripheral wall of the spout (21) is being read on the claimed "retention collar".

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Paradiso. The examiner can normally be reached Monday-Friday, 9:30 p.m. – 6:00 p.m. (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada, can be reached at the number listed below.

Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Technology Center Receptionist.

/John Paradiso/

Examiner John Paradiso: (571) 272-4466

July 16, 2009

/Louis K. Huynh/

Primary Examiner, Art Unit 3721

Additional Phone Numbers:

Supervisor Rinaldi Rada: (571) 272-4467

Fax (Official): (571) 273-8300

Fax (Direct to Examiner) (571) 273-4466 (Drafts only)